

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 544

Introduced by Senator Price

February 17, 2011

~~An act to amend Section 650 of the Business and Professions Code, relating to healing arts.~~ *An act to add Section 1623 to the Business and Professions Code, relating to dentistry.*

LEGISLATIVE COUNSEL'S DIGEST

SB 544, as amended, Price. ~~Healing arts.~~ *Dental Board of California: collection of fees, fines, and cost recovery.*

Existing law, the Dental Practice Act, provides for the licensure and regulation of dentists by the Dental Board of California. Existing law establishes specified fees for licenses, permits, and certificates issued by the board. Existing law also sets forth specified fines and penalties for violations of the Dental Practice Act.

This bill would authorize the board to contract with a collection agency to collect outstanding fees, fines, or cost recovery amounts from persons who owe those moneys to the board, as specified. The bill would require the contract with a collection agency to contain specified safeguards to protect an individual's personal information from unauthorized disclosure and to provide for the liability of the collection agency for the unauthorized use or disclosure of that information.

~~Under existing law, a healing arts licensee, except as specified, may refer a person to any laboratory, pharmacy, clinic, or health care facility, as defined, even if the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility.~~

~~This bill would make a technical, nonsubstantive change to a related provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1623 is added to the Business and*
2 *Professions Code, to read:*

3 1623. (a) Notwithstanding any other provision of law, the
4 board may contract with a collection agency for the purpose of
5 collecting outstanding fees, fines, or cost recovery amounts from
6 any person who owes that money to the board, and, for those
7 purposes, may provide to the collection agency the personal
8 information of that person, including his or her birth date,
9 telephone number, and social security number. The contractual
10 agreement shall provide that the collection agency may use or
11 release personal information only as authorized by the contract,
12 and shall provide safeguards to ensure that the personal
13 information is protected from unauthorized disclosure. The
14 contractual agreement shall hold the collection agency liable for
15 the unauthorized use or disclosure of personal information received
16 or collected under this section.

17 (b) The board shall not use a collection agency to recover
18 outstanding fees, fines, or cost recovery amounts until the person
19 has exhausted all appeals and the decision is final.

20 ~~SECTION 1. Section 650 of the Business and Professions Code~~
21 ~~is amended to read:~~

22 ~~650. (a) Except as provided in Chapter 2.3 (commencing with~~
23 ~~Section 1400) of Division 2 of the Health and Safety Code, the~~
24 ~~offer, delivery, receipt, or acceptance by any person licensed under~~
25 ~~this division or the Chiropractic Initiative Act of any rebate, refund,~~
26 ~~commission, preference, patronage dividend, discount, or other~~
27 ~~consideration, whether in the form of money or otherwise, as~~
28 ~~compensation or inducement for referring patients, clients, or~~
29 ~~customers to any person, irrespective of any membership,~~
30 ~~proprietary interest, or coownership in or with any person to whom~~
31 ~~these patients, clients, or customers are referred is unlawful.~~

32 ~~(b) The payment or receipt of consideration for services other~~
33 ~~than the referral of patients which is based on a percentage of gross~~
34 ~~revenue or similar type of contractual arrangement shall not be~~
35 ~~unlawful if the consideration is commensurate with the value of~~

1 the services furnished or with the fair rental value of any premises
2 or equipment leased or provided by the recipient to the payer.

3 ~~(e) The offer, delivery, receipt, or acceptance of any~~
4 ~~consideration between a federally qualified health center, as defined~~
5 ~~in Section 1396d(l)(2)(B) of Title 42 of the United States Code,~~
6 ~~and any individual or entity providing goods, items, services,~~
7 ~~donations, loans, or a combination thereof to the health center~~
8 ~~entity pursuant to a contract, lease, grant, loan, or other agreement,~~
9 ~~if that agreement contributes to the ability of the health center~~
10 ~~entity to maintain or increase the availability, or enhance the~~
11 ~~quality, of services provided to a medically underserved population~~
12 ~~served by the health center, shall be permitted only to the extent~~
13 ~~sanctioned or permitted by federal law.~~

14 ~~(d) Except as provided in Chapter 2.3 (commencing with Section~~
15 ~~1400) of Division 2 of the Health and Safety Code and in Sections~~
16 ~~654.1 and 654.2 of this code, it shall not be unlawful for any person~~
17 ~~licensed under this division to refer a person to any laboratory,~~
18 ~~pharmacy, clinic (including entities exempt from licensure pursuant~~
19 ~~to Section 1206 of the Health and Safety Code), or health care~~
20 ~~facility solely because the licensee has a proprietary interest or~~
21 ~~coownership in the laboratory, pharmacy, clinic, or health care~~
22 ~~facility, provided, however, that the licensee's return on investment~~
23 ~~for that proprietary interest or coownership shall be based upon~~
24 ~~the amount of the capital investment or proportional ownership of~~
25 ~~the licensee which ownership interest is not based on the number~~
26 ~~or value of any patients referred. Any referral excepted under this~~
27 ~~section shall be unlawful if the prosecutor proves that there was~~
28 ~~no valid medical need for the referral.~~

29 ~~(e) Except as provided in Chapter 2.3 (commencing with Section~~
30 ~~1400) of Division 2 of the Health and Safety Code and in Sections~~
31 ~~654.1 and 654.2 of this code, it shall not be unlawful to provide~~
32 ~~nonmonetary remuneration, in the form of hardware, software, or~~
33 ~~information technology and training services, as described in~~
34 ~~subsections (x) and (y) of Section 1001.952 of Title 42 of the Code~~
35 ~~of Federal Regulations, as amended October 4, 2007, as published~~
36 ~~in the Federal Register (72 Fed. Reg. 56632 and 56644), and~~
37 ~~subsequently amended versions.~~

38 ~~(f) "Health care facility" shall mean a general acute care~~
39 ~~hospital, acute psychiatric hospital, skilled nursing facility,~~
40 ~~intermediate care facility, and any other health facility licensed by~~

1 the State Department of Public Health under Chapter 2
2 (commencing with Section 1250) of Division 2 of the Health and
3 Safety Code.
4 (g) A violation of this section is a public offense and is
5 punishable upon a first conviction by imprisonment in a county
6 jail for not more than one year, or by imprisonment in the state
7 prison, or by a fine not exceeding fifty thousand dollars (\$50,000),
8 or by both that imprisonment and fine. A second or subsequent
9 conviction is punishable by imprisonment in the state prison or by
10 imprisonment in the state prison and a fine of fifty thousand dollars
11 (\$50,000).